IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7762 OF 2005

Aslam @ Ashraf Iman Sayyed .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Ganesh Gole for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th December 2005.

P.C.

. Heard Mr.Gole for applicant and Mr.Pednekar, A.P.P. for State.

2. Applicant is arrested in connection with C.R.No.192 of 2004 registered at Shahunagar Police Station for offences punishable under sections 323, 326 r/w 34 I.P.C.

3. I have perused the complaint made by Sanndil Shetiar. Essentially, the allegation is against uncle of complainant Ganeshan. Name of Arun is also mentioned in the complaint. It is the uncle Ganeshan who is supposed to have removed sickle from his pant and assaulted complainant. Prima facie, injuries inflicted also, appear to be of this weapon. As far as present applicant is concerned, statement of this Sanndil shetiar does not mention applicant's name specifically. No role is attributed to the present applicant in the assault as well.

4. However, Mr.Pednekar, A.P.P. states that there is serious apprehension that applicant herein would not be available at the time of

trial. In invites my attention to the fact that upon arrest of this accused- applicant on 31st December 2004, he took ill and was admitted to Sion Hospital under police protection. On 21st January 2005, applicant ran away from Sion hospital. C.R. was registered under section 224 of I.P.C. bering No.4 of 2005. Applicant was re-arrested on 9th July 2005. He was found to be possessing country made pistol which was recovered and seized and again another C.R. under Arms Act is registered. It is in these circumstances, applicant does not deserve to be enlarged on bail.

5. Mr.Gole states that prima facie case for grant of bail is made out by applicant. As far as allegation that he may abscond and will not be available at the trial, Mr.Gole submits that the applicant has been re-arrested and is in custody for more than 5 months now. Application of applicant for being released on bail cannot be

thrown out merely because during the course of treatment at Sion Hospital it is alleged that he ran away. He states that offences registered are not so serious soas to warrant applicant's custody in the present case.

6. While it is true that applicant's application cannot be thrown out on the apprehension expressed but it must be noted that applicant is re-arrested after he was absconding for considerable period of time. In these circumstances, stringent conditions will have to be imposed. Hence following order.

i) Applicant is released on bail in connection with C.R.No.192 of 2004 registered with Shahunagar Police Station, Mumbai in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) Applicant shall report to Shahunagar Police Station twice a week on every Monday and Thursday between 10.00 a.m. and 1.00 p.m.

iii) Applicant shall not be released unless he satisfies I.O. about the proof of his residence in Mumbai and more particularly at the address mentioned in the cause title of the present application. Upon scrutiny and verification of these documents and place by I.O., applicant shall be released on bail.

iv) Applicant shall not directly or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application disposed of.

viii) All parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)